

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL T. WEST,

Plaintiff(s),

CASE NUMBER: 07-10269
HONORABLE VICTORIA A. ROBERTS

v.

SALVATION ARMY, et al.,

Defendant(s).

ORDER

On January 25, 2007, the Court granted *pro se* Plaintiff Michael T. West *in forma pauperis* status. But, the Court *sua sponte* dismissed his complaint, pursuant to 28 U.S.C. §1915(e)(2)(B)(ii), for failure to state a claim, and deemed his request for appointment of counsel moot. The Court dismissed Plaintiff's claim because he alleged that he was terminated by his employer because he has a criminal record. The Court found that these facts were insufficient to allege a claim under Title VII of the Civil Rights Act., 42 U.S.C. §2000, because persons with criminal records are not a protected class.

On January 30, 2007, Plaintiff filed a "First Non-Superseeding [sic] Amended Complaint," amending his allegations to assert that he was fired because of his race. He alleges that Defendant Salvation Army discriminated against him pursuant to a policy, custom or practice of requiring African Americans to reveal their criminal records. The Court construes Plaintiff's filing as a request for relief from judgment, pursuant to

FRCP 60(b)(6), and for leave to amend his complaint, pursuant to FRCP 15(a). The Court GRANTS Plaintiff's request in part.

Pro se complaints are to be liberally construed and "must be held to 'less stringent standards than formal pleadings drafted by lawyers.'" *Estelle v Gamble*, 429 U.S. 97, 106 (1976)(quoting *Haines v Kerner*, 404 U.S. 519 (1972)); *Harris v Johnson*, 784 F.2d 222, 224 (6th Cir. 1986). Although inartfully worded, Plaintiff's amended allegations correct the deficiencies previously identified by the Court. Therefore, the Court will permit Plaintiff to proceed on the Amended Complaint.

Therefore, the Court's January 25, 2007 Order **[Doc. 4]** is rescinded in part. The Court rescinds its dismissal of Plaintiff's complaint. Plaintiff's request for leave to amend his complaint is GRANTED.

The Court also rescinds its finding that Plaintiff's request for appointment of counsel is moot. But, at this time, the Court DENIES Plaintiff's motion WITHOUT PREJUDICE.

The Court's ruling granting Plaintiff *in forma pauperis* status stands. The Clerk of the Court is directed to serve the Amended Complaint upon the Defendants.

IT IS SO ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: February 26, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se plaintiff by electronic means or U.S. Mail on February 26, 2007.

S/Carol A. Pinegar _____
Deputy Clerk